

IV. REMARKS

The Applicant would like to sincerely thank Examiner, Dmitry Suhol for a thorough examination of the above-referenced application. The Applicant has amended the specification and the claims. Specifically the Applicant has amended the claims and is providing explanations sufficient enough to overcome the Examiner's rejections as follows:

A. Claims 1-4 Rejection (35 U. S. C § 102)

First, Applicant agrees with the Examiner's position that Graves ('433) teaches the following: a head portion, a neck portion, a torso portion and a base support portion with respect to claim 1; a pouch area and external pouch covering with respect to claim 2; a chest and abdomen portion with respect to claim 3; and a head portion comprising human-like eyes, human-like nose, human-like mouth and a base comprising a pair of lower extremities with respect to claim 4.

To overcome rejection of claim 1, the Applicant amended claim 1 to include a **"Kangaroo abdomen portion"** (emphasis added) and a **control panel**. Graves neither discuss nor suggest that its invention's abdomen was designed to simulate a baby resting in a Kangaroo abdomen containing a Kangaroo pouch, nor does it teach a control panel. Column 3, lines 30-50 of Graves describe a teaching-aid manikin device for simulating a pregnant woman; that is, with a fetus doll (**non living fetus**) enclosed in a **"Closed Abdomen Cavity"**. In contrasts, the Applicant device is used for live infants (not fetus dolls), which are placed in the device's Kangaroo pouch where parent-infant bonding/attachment occurs in the absence of biological parents through the transfer of the device's simulated parental body temperature, the device's simulated parental heartbeat, the device's simulated parental voice and the device's simulated parental breathing.

According to the Federal Circuit, “[a]nticipation requires the disclosure in a single prior art reference of **each element** of the claim under consideration.” *W. L. Gore & Assocs, v. Garlock, Inc.*, 721 F.2d 1540 (Fed. Cir. 1983). It is not enough, however, that the reference disclose all the claimed elements in isolation. Rather, as stated by the Federal Circuit, the prior art reference must disclose each element of the claimed invention arranged as in the claim. *See, Lindermann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 730 F.2d 1452 (Fed. Cir. 1984).

Applying the aforementioned precedents to the facts of this case, Graves does not teach all the elements listed in amended claim 1 of the present invention. Specifically, Graves teaches a manikin with an enclosed pouch (**not a Kangaroo pouch/abdomen**) for dolls and not living infants. The fetus dolls in Graves are completely enclosed in the abdomen (see figures 1 and 2 of Graves) unlike the infants (not fetus dolls) in the Applicant’s invention which are expected to be partly enclosed “**outwardly**” in a pouch similar to the pouch and abdomen of a Kangaroo (see figures 1, 2 and 4 of the Applicant’s invention). Also, nowhere in Graves is a control panel discussed or suggested, as Graves’ invention is directed to a teaching apparatus whereas Applicant’s invention is directed to a medical device with controllable built-in components. Therefore claim 1 as amended overcomes the present rejection and should respectfully be allowed. Similarly, dependent claims 2-10 should respectfully be allowed in view of their respective amendments, where applicable, and related amendments in claim 1.

Second, Applicant agrees with the Examiner’s position that Cieslak (‘433) teaches a head portion, a neck portion, a torso portion and a base support portion with respect to claim 11. However, Applicant respectfully disagrees with the Examiner assertions that Cieslak teaches the following claim limitation in the pre-amended version of claim 11: “ a crib for placing said device in a horizontal device.” Figure 4 of Cieslak teaches a bin serving as a bed (not a bed or crib) for placing twin dolls (Column 1 lines 65-68). The bin is placed in the doll(see figure 2) and serves as a storage mechanism to conserve space. Cieslak further teaches the use of a bin, instead of a crib or bed, and list advantages accordingly (see Column 1, lines 30- 45).

According to the Federal Circuit, “[a]nticipation requires the disclosure in a single prior art reference of **each element** of the claim under consideration.” *W. L. Gore & Assocs, v. Garlock, Inc.*, 721 F.2d 1540 (Fed. Cir. 1983). It is not enough, however, that the reference disclose all the claimed elements in isolation. Rather, as stated by the Federal Circuit, the prior art reference must disclose each element of the claimed invention arranged as in the claim. *See, Lindermann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 730 F.2d 1452 (Fed. Cir. 1984). Because Cieslak did not teach the crib element in pre-amended claim 11, the Examiner’s anticipatory rejection was lacking and should be withdrawn. Furthermore, the Applicant has amended claim 11 to add additional limitations which are not taught by Cieslak or any combination of references cited by the Examiner.

The Applicant amended claim 11 to include a **“Kangaroo abdomen portion”** (emphasis added) and a **control panel**. Cieslak neither discuss nor suggest that its invention’s abdomen was designed to simulate a baby resting in a Kangaroo abdomen containing a Kangaroo pouch, nor does it teach a control panel. In contrasts, the Applicant device is used for live infants (not dolls), which are placed in the device’s Kangaroo pouch where parent-infant bonding/attachment occurs in the absence of biological parents through the transfer of the device’s simulated parental body temperature, the device’s simulated parental heartbeat, the device’s simulated parental voice and the device’s simulated parental breathing. Also, nowhere in Cieslak is a control panel discuss or suggested, as Cieslak’s invention is directed to a storing apparatus, whereas Applicant’s invention is directed to a medical device with controllable built-in components.

Therefore claim 11 as amended overcomes the present rejection and should respectfully be allowed since now **“three elements”** required for proper anticipatory rejections are not taught or suggested by Cieslak: **a crib, a Kangaroo abdomen portion and a control panel**. Similarly, dependent claims 12-20 should respectfully be allowed in view of their respective amendments, where applicable, and related amendments in claim 11.

B. Claims 11-14 Rejection (35 U. S. C §103)

Claims 11-14 were rejected as being unpatentable over Kaplan ('442) in view of Stopek ('433). As discussed above, the Applicant has amended claim 11 to include **a Kangaroo Abdomen portion and a control panel**, which are not taught by the references cited by the Examiner individually or in combination. Both Kaplan and Stopek lack these limitations and thus do not constitute a proper 35 U. S. C § 103 rejection.

Next all the references cited by the Examiner are not **analogous prior art** for the purpose of 35 U. S. C § 103 rejection, pursuant to the purpose set by the United States Court of Appeal for the Federal Circuit: "A reference is reasonably pertinent if ... it is one which, because of the matter with which it deals, logically would have commended itself to the inventor's attention in considering his problem... If a reference disclosure has the same purpose as the claimed invention, the reference relates to the same problem... . If it is directed to a different purpose, the inventor would accordingly have had less motivation or occasion to consider it." *In re Clay*, 966 F.2d 656 (Fed. Cir. 1992). It is indisputable that Kaplan and Stopek are directed to dolls (toys for playing) and the Applicant device is for medical purposes - to promote the orderly development of full and pre-term infants, etc. Therefore the references cited by the Examiner are not pertinent, do not have the same purpose as the Applicant's invention, do not relate to the same problem, are all directed to a different inventive purpose and thus are not analogous art for purposes of 35 U. S. C § 103 rejection.

Finally, the Applicant would like to bring to the Examiner attention the criticality of the Kangaroo abdomen portion of the device used in performing "Kangaroo Care Attachment" as disclosed in the specification of the application. Thus, amended claims 11-14 overcomes the Examiner's 103 rejections based on the enclosed amendment and the explanation provided above and should respectfully be allowed.

Conclusion

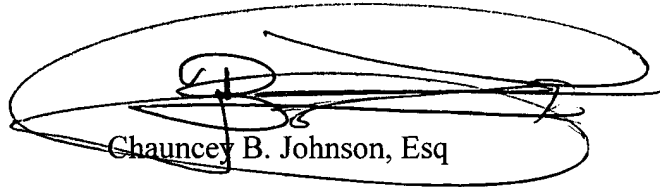
Because the Applicant has amended the specification, including the claims and has overcome the Examiner's rejection requirements under both 35 U. S. C §§102 and 103, the Applicant respectfully ask the Examiner to place the above-referenced application (claims 1-20) in

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condition for allowance. It is submitted that should there be any problem with this filing, please telephone or fax the undersigned attorney at (301) 317 4399 or (301) 483 6791 respectively. Please address all correspondence to Johnson & Associates, P. C. at 14625 Baltimore Avenue # 282, Laurel, MD 20707.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Chauncey B. Johnson", is written over a large, loopy oval scribble. The signature is partially obscured by the scribble.

Chauncey B. Johnson, Esq

Registration No. 46,003

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